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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,982	02/22/2002	Roger L. Johnston	1266.015	9956
7590	04/19/2006			
EXAMINER				CHIN, PAUL T
ART UNIT				PAPER NUMBER
				3652
DATE MAILED: 04/19/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/080,982	JOHNSTON, ROGER L.
	Examiner PAUL T. CHIN	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 January 2006 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. Applicant's amendment filed October 11, 2005, and the arguments presented therewith have been carefully fully considered and they are persuasive in light of the amended claims. However, the arguments are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

#### ***Drawings***

2. The drawings were received on January 24, 2006,. These drawings are approved.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4,7,9-11,17-19,21,22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Soviet Union Patent (SU 887434) in view of either the France Patent (FR 2420502) or Gonzales (3,831,791).

The Soviet Union Patent (SU 887434) discloses a triangular mobile gantry crane and method to lift a load, comprising first, second, and third booms (3,4,6), each of which having a mobile base that is independently support on the ground and a vertically lift leg (Fig. 2) supported on the base; and the first boom, which can be one of them, laterally between the second and third booms substantially interconnected the lift legs; a plurality of horizontal beams (1,8,9) that functionally interconnected the lift leg to lift a load; and rigging that extends downwardly from the beam and that is detachably coupleable to the

load. The Soviet Union Patent (SU 887434) does not show each of the booms is extendible and one of the beams (1,8,9) is linearly extendible to increase the spacing. However, the France Patent (FR 2420502) teaches a mobile gantry having an extendible boom (12,13) and an extendible beam (6) so that the span of the gantry can be adjusted to suit any width of the track (see Figs. 2 and 3). Gonzales (3,831,791) also teaches a mobile lift having an extendible boom (44,46,50) and an extendible beam (20) to adjust the spacing and the height. Accordingly, it would have been obvious to those skilled in the art to modify the boom and the beam of the Soviet Union Patent (SU 887434) as taught by either the France Patent (FR 2420502) or Gonzales (3,831,791) to be an extendible boom and the beam to be an extendible beam so that the modified gantry would be capable of lifting different sizes of loads at different locations.

Re claim 4, figures 2 and 3 show one outer tube (6) slidable over at least one inner tube.

Re claim 9, the France Patent (FR 2420502) shows an extendible beam having a plurality of slots, which can be considered as mounting points, and Gonzales (3,831,791) also shows an extendible beam having a plurality of apertures, which can be considered as mounting points,

Re claim 11, the Soviet Union Patent (SU 887434) shows wheels (5) in figure 2.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Soviet Union Patent (SU 887434) in view of either the France Patent (FR 2420502) or Gonzales (3,831,791), as applied to claims 1-4 above, and further in view of Brower (4,897,011).

The modified Soviet Union Patent (SU 887434), as presented in section 4 above, does not specifically show a first outer tube and a second outer tube sliding over an inner tube. However, Brower (4,897,011) teaches a horizontal beam (16) (Fig. 1) having a

first outer tube and a second outer tube sliding over an inner tube. Accordingly, it would have been obvious to those skilled in the art to provide a first outer tube and a second outer tube sliding over an inner tube on one of the booms of the Soviet Union Patent (SU 887434) as taught by Brower (4,897,011) to provide more flexibility to adjust the spacing between the booms.

6. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Soviet Union Patent (SU 887434) and the France Patent (FR 2420502) or Gonzales (3,831,791) in view of Brower (4,897,011), as applied to claims 1-5 above, and further in view of Tana et al. (4,973,094).

The modified Soviet Union Patent (SU 887434), as presented in section 5 above, does not show a pair of cylinders on the outer tubes and inner tube to extend or extract. However, Tana et al. (4,973,094) teaches a pair of cylinders (9b,9c),10b,10c) on the respective tubes (3b,3c,4b,4c) to extend or extract. Accordingly, it would have been obvious to those skilled in the art to provide a pair of cylinders on the tubes the Soviet Union Patent (SU 887434) as taught by Tana et al. (4,973,094) to conveniently to extend or extract the beams.

7. Claim 12,13,15,16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Soviet Union Patent (SU 887434) and the France Patent (FR 2420502) or Gonzales (3,831,791), as applied to claim 1 above, and further in view of Rulison (4,749,324).

The modified Soviet Union Patent (SU 887434), as presented in section 4 above, does not specifically show the mobile base is 360 degree rotatable. However, Rulison (4,749,324) teaches a base (42) having a wheel (38,40) which is rotatable 360 degree

(Col. 2, lines 54-65). Accordingly, it would have been obvious to those skilled in the art to modify each wheel the Soviet Union Patent (SU 887434) as taught by Rulison (4,749,324) so that the modified gantry could be used not only for tracks but also different locations. It also would have been obvious to those skilled in the art to provide a pair of cylinders on the beams of the Soviet Union Patent (SU 887434) to conveniently to extend or extract the beams.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Soviet Union Patent (SU 887434) and the France Patent (FR 2420502) or Gonzales (3,831,791) in view of Brower (4,897,011), and further in view of Rulison (4,749,324).

The modified Soviet Union Patent (SU 887434), as presented in section 5 above, does not specifically show the mobile base is 360 degree rotatable. However, Rulison (4,749,324) teaches a base (42) having a wheel (38,40) which is rotatable 360 degree (Col. 2, lines 54-65). Accordingly, it would have been obvious to those skilled in the art to modify each wheel the Soviet Union Patent (SU 887434) as taught by Rulison (4,749,324) so that the modified gantry could be used not only for tracks but also different locations. It also would have been obvious to those skilled in the art to provide a pair of cylinders on the beams of the Soviet Union Patent (SU 887434) to conveniently to extend or extract the beams.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment (the addition of new structural limitations in the claims) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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4/17/06  
DEAN J. KRAMER  
PRIMARY EXAMINER